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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,887	09/18/2003	Hemant Hebbar	CISCP356/8039	9091

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BEYER WEAVER & THOMAS, LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

EXAMINER	
MCCARTHY, CHRISTOPHER S	

ART UNIT	PAPER NUMBER
2113	

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/666,887	HEBBAR ET AL.	
	Examiner	Art Unit	
	Christopher S. McCarthy	2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 September 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,7,9,11-14,18-21,24,26 and 28* is/are rejected.

7)☒ Claim(s) *5,6,8,10,15-17,22,23,25 and 27* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1-3*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3, 7, 9, 13, 14, 20, 24, 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. All claims recite "at least" language when describing a warm state. The language, when taken in light of the specification, does not specify what states are defined in the "at least" limitation; that is, the at least warm state can include warm and cold states, or it can include warm and hot states, or all three states. There is no descriptive language to define this range of inclusion.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 4, 11, 18, 21, and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Giraud et al. U.S. Patent Application Publication US2003/0093557A1.

As per claim 1, Giraud teaches a method of providing high availability for a network (paragraph 0009), the method comprising: configuring a first supervisor in a first chassis of a virtual network device as an active supervisor (paragraph 0018); and configuring a second supervisor in a second chassis of the virtual network device as a standby supervisor for the virtual network device (paragraph 0022).

As per claim 4, Giraud teaches the method of claim 1, further comprising keeping the second supervisor in a hot standby state (paragraph 0022).

As per claim 11, Giraud teaches a virtual network device configured for high availability, the virtual network device comprising: a first chassis comprising a first supervisor configured as an active supervisor (paragraph 0018); and a second chassis comprising a second supervisor configured as a standby supervisor (paragraph 0022).

As per claim 18, Giraud teaches a computer program embodied in a machine-readable medium, the computer program comprising instructions for controlling a virtual network device to perform the following steps: configuring a first supervisor in a first chassis of the virtual network device as an active supervisor (paragraph 0018); and configuring a second supervisor in a second chassis of the virtual network device as a standby supervisor for the active supervisor (paragraph 0022).

As per claim 21, Giraud teaches the computer program of claim 18, further comprising instructions for keeping the second supervisor in a hot standby state (paragraph 0022).

As per claim 28, Giraud teaches an apparatus for providing high availability for a network, the apparatus comprising: means for configuring a first supervisor in a first chassis of a virtual network device as an active supervisor (paragraph 0018); and means for configuring a second supervisor in a second chassis of the virtual network device as a standby supervisor for the active supervisor (paragraph 0022).

5. Claims 1, 2, 4, 11, 12, 18, 19, 21, 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Shinomiya U.S. Patent Application Publication US2003/0037165A1.

As per claim 1, Shinomiya teaches a method of providing high availability for a network (paragraph 0043), the method comprising: configuring a first supervisor in a first chassis of a virtual network device as an active supervisor (paragraph 0016); and configuring a second supervisor in a second chassis of the virtual network device as a standby supervisor for the virtual network device (paragraph 0016).

As per claim 2, Shinomiya teaches the method of claim 1, wherein the active supervisor and the standby supervisor are further configured to perform load balancing of traffic for the virtual network device (paragraph 0013).

As per claim 4, Shinomiya teaches the method of claim 1, further comprising keeping the second supervisor in a hot standby state (paragraph 0046, 0071).

As per claim 11, Shinomiya teaches a virtual network device configured for high availability, the virtual network device comprising: a first chassis comprising a first supervisor configured as an active supervisor; and a second chassis comprising a second supervisor configured as a standby supervisor (paragraph 0016).

As per claim 12, Shinomiya teaches the virtual network device of claim 11, wherein the first supervisor and the second supervisor are further configured to perform load balancing of traffic for the virtual network device (paragraph 0013).

As per claim 18, Shinomiya teaches a computer program embodied in a machine-readable medium, the computer program comprising instructions for controlling a virtual network device to perform the following steps: configuring a first supervisor in a first chassis of the virtual network device as an active supervisor; and configuring a second supervisor in a second chassis of the virtual network device as a standby supervisor for the active supervisor (paragraph 0016).

As per claim 19, Shinomiya teaches the computer program of claim 18, further comprising instructions for causing the active supervisor and the standby supervisor to perform load balancing of traffic for the virtual network device (paragraph 0013).

As per claim 21, Shinomiya teaches the computer program of claim 18, further comprising instructions for keeping the second supervisor in a hot standby state (paragraph 0046, 0071).

As per claim 28, Shinomiya teaches an apparatus for providing high availability for a network, the apparatus comprising: means for configuring a first supervisor in a first chassis of a virtual network device as an active supervisor; and means for configuring a second supervisor in a second chassis of the virtual network device as a standby supervisor for the active supervisor (paragraph 0016).

Allowable Subject Matter

6. Claims 5, 6, 8, 10, 15, 16, 17, 22, 23, 25, 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: See attached PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. McCarthy whose telephone number is (571)272-3651. The examiner can normally be reached on M-F, 9 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher S. McCarthy
Examiner
Art Unit 2113